

## REMARKS

Upon entry of this response, claims 1-32 are pending. Claims 1, 2, 4-5, 14-19, and 21-23 have been withdrawn. Claims 6 and 23 have been amended. Claims 24-32 have been added. Claims 3, 8, 13, and 20 were previously canceled.

Support for the amendment to claim 6 appears at least at claim 6. Support for the amendment to claim 23 appears at least at claims 5, 10, and 23. Support for new claims 24-32 appears at least at claims 14-19, 21-23, respectively. No new matter has been added by way of this response.

### Restriction Requirement

In response to the outstanding Restriction Requirement of January 22, 2007, Applicant elects the invention of Group II (claims 6, 7 and 9-12), drawn to a non aqueous electrolyte battery, classified in class 429, subclass 218.1, for examination on the merits. Given that new claims 24-32 ultimately depend from claim 6, Applicants include claims 24-32 in Group II for examination on the merits.

In electing the claims of Group II, Applicants hereby request REJOINDER of non-elected claims upon allowance of any corresponding elected subcombination claims (*see* MPEP § 821.04(a)).

### Outstanding Rejection under 35 U.S.C. §103(a)

Applicants direct the Office to the Response to Office Action of October 23, 2006, in which the obviousness rejection of the presently elected claims 6, 7, and 9-12 over Kawakami was traversed.

New nonaqueous electrolyte battery claims 24-32 incorporate all elements of negative electrode active material claims 14-19, 21-23, respectively, and thus are likewise nonobvious over Kawakami.

CONCLUSION

Applicants believe that the claims as presented represents allowable subject matter. If the Office desires, Applicants welcome a telephone interview to expedite prosecution. Applicants believe there is an excess claim fee of \$450 due at this time. The Commissioner is hereby authorized to charge any applicable fees to Deposit Account No. 19-3140.

Respectfully submitted,

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